

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SCHEDULING ORDER

This matter is before the Court on Plaintiff's Motion for a Temporary Restraining Order or Preliminary Injunction. (Doc. 8). The Defendants presented no evidence to the Court at or before the hearing on this matter on October 17. At the hearing, the Defendants requested an additional opportunity to present evidence if the Court decided to grant the preliminary injunction. Concomitantly with this Order, the Court has entered a Memorandum Opinion and a Preliminary Injunction.

In its discretion, the Court will allow the parties to present additional evidence before the trial on the merits, if an appropriate motion is filed. Pursuant to Rule 16 of the Rules of Civil Procedure, it is ORDERED that:

1. The Defendants shall file an Answer in this case no later than November 9.
2. The matter is set for review on December 5, 2011. The hearing will continue on December 6 if necessary.
3. Any party may file a motion to vacate or modify the Preliminary Injunction at any appropriate time.

- a. The court anticipates deciding any such motions primarily on affidavits and documentary evidence, but will give each side a limited opportunity to present live testimony, if they wish and subject to available court time.
 - b. Affidavits in support of any motion to vacate or modify shall be filed with the motion. If the moving party wants to present live evidence, the party shall file a request for hearing, a witness list and an exhibit list with the motion. Copies of any documentary exhibits shall be provided to opposing counsel and filed at the same time; the exhibits must be authenticated by affidavit and otherwise be admissible. The motion shall be accompanied by a brief no longer than thirty pages.
 - c. To the extent one side identifies witnesses and exhibits or files affidavits, the other side may file and serve similar rebuttal material within ten business days. No brief may be longer than thirty pages.
 - d. No witness will be allowed to testify at any hearing on a motion to modify or vacate who has not previously provided a detailed affidavit pursuant to paragraphs 3(b) and 3(c) covering the proffered testimony. No exhibits will be received which were not filed pursuant to paragraph 3(b) and 3(c).
4. If the Defendants want to be heard on December 5 on the merits of a Motion to Vacate or Modify the Injunction, the Defendants must file the motion no later than November 9. If the Plaintiffs want to be heard on the merits of a Motion to Modify the Injunction on December 5, the Plaintiffs must file the motion no later than November 10. If any such motion is timely filed:

- a. Each side will be allowed three hours to present live testimony, cross-examine witnesses presented by the other side, and offer exhibits at the hearing on December 5-6.
- b. The parties may take depositions in November upon such terms as they agree. Depositions are not necessary, but the court will receive transcripts in evidence of any depositions taken by agreement.
- c. Each side may submit an additional brief no longer than ten pages no later than December 19, in light of the evidence presented at the hearing.

5. If no motions are filed pursuant to Paragraph 4 herein by November 10, the hearing on December 5 will be limited to a discussion of scheduling and other logistical matters, as well as any other motions which may be ripe for hearing at that time. If any motions to vacate or modify are filed after November 10, the Court will schedule the motion for hearing as court time is available.

This the 25th day of October, 2011.



UNITED STATES DISTRICT JUDGE